IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1640 OF 2007

Mr.Gautam Kisan Wadave. ...Applicant.

Versus

The State of Maharashtra ...Respondent.

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Mr.Ajit R. Pitale, Adv. for the Applicant.
Mr.Rajesh More, APP, for the State.

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CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : 5th June, 2007.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned APP for the State.

2. The applicant is seeking anticipatory bail in C.R.No.I-28 of 2007 of Khed (Rajgurunagar) Police Station, District - Pune. The said case is mainly under Sections 420, 467, 468 of IPC.

3. It is the prosecution case that one Rakshe (coaccused) a tenant in the agricultural land belonging to the members of Rajpathak family, prepared a false and fabricated document in collusion with present applicant and other

accused. By the said fabricated document sale-deed for Rs.5 lacs was executed in the name of coaccused Aniket Pandharinath Yelwande. The payment was made to original accused No.1 - Damodar Dhondiba Rakshe and the persons produced by him falsely pretended that they were from Rajpathak family. Thus they masqueraded as being Rajpathak's. The role attributed to the present applicant is that he has signed as witness on the said forged sale-deed. The material on record clearly implicates the present applicant.

4. Mr.Pitale, the learned Advocate for the applicant has stated that the other coaccused have been released on bail. It is well settled that the consideration for bail and anticipatory bail are quite different as observed by the Apex Court in the case of **State Vs. Anil Sharma**, reported in **1997 SCC (Cri.) 1039.** Hence the fact that coaccused are released on bail can be of no help to the applicant, who is seeking anticipatory bail.

5. In my view, the material collected by the prosecution in the present case is such as to

point out an accusing finger towards the present applicant. The Apex Court has observed in the decision of **Directorate of Enforcement Vs. P.V.Prabhakar Rao,** reported in **1997 SCC (Cri.) 978** that when the material gathered by the prosecution is such as to point out an accusing finger towards the accused, it is not a fit case to grant anticipatory bail. Hence, application is rejected.

(SMT.V.K.TAHILRAMANI,J.)